

## WILLIAM EDGAR WEAVER

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AUGUST 22, 1960.—Ordered to be printed

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Mr. EASTLAND, from the Committee on the Judiciary, submitted the following

## REPORT

[To accompany H.R. 8054]

The Committee on the Judiciary, to which was referred the bill (H.R. 8054) for the relief of William Edgar Weaver, having considered the same, reports favorably thereon, without amendment, and recommends that the bill do pass.

## PURPOSE

The purpose of the proposed legislation is to give the Foreign Claims Settlement Commission jurisdiction to receive and determine the validity and amount of the claim of William Edgar Weaver for detention benefits under section 16 of the War Claims Act of 1948, as amended; without regard to the time limitations for filing claims under that section. The Commission would be directed to certify any award to the Secretary of the Treasury for payment.

## STATEMENT

The facts of this case are set forth in House Report No. 1723, as follows:

During World War II, William Edgar Weaver was a member of the U.S. merchant marine. On February 23, 1943, he was serving on the SS *Jonathan Sturges* when it was torpedoed in the North Atlantic. Along with six other men, Mr. Weaver was adrift in a lifeboat until April 5, 1943, when he was taken captive by a German submarine. After 6 days aboard the submarine, Mr. Weaver was taken to Germany where he was interned at Marlag-Milag-Nord. On January 21, 1945, he was exchanged and returned to the United States on the MS *Gripsholm*.

As is evidenced by the report of the Foreign Claims Settlement Commission, Mr. Weaver filed a claim for civilian detention benefits, the benefits here concerned, with the former War Claims Commission on February 23, 1950. However, this claim was not paid, since at that time the law failed to provide for persons such as Mr. Weaver captured in the North Atlantic by German military forces since the then applicable provisions of section 5 (a) through (e) of the 1948 War Claims Act limited payment of benefits to persons captured in certain Pacific areas by the Japanese.

The law was subsequently amended to provide for benefits to persons in Mr. Weaver's category and it appears from the Commission's report that while Mr. Weaver's previous claim was regarded as an informal claim under new section 16, the Commission required a new application to give effect to such a claim. This committee feels that these facts establish that the Commission was aware of the existence of Mr. Weaver's claim, and had available all of the facts necessary for an adjudication of the claim. It therefore appears that there is no basis for asserting that the Government would be prejudiced by the passage of time in this instance. Further, it is stated in the Commission's report that there are presently sufficient funds in the war claims fund for the payment of this claim which would amount to approximately \$1,272.

The committee concurs in the conclusion of the House Committee on the Judiciary that the facts in this case adequately provide the basis for legislative relief. Accordingly, it is recommended that the bill be given favorable consideration.

Attached hereto and made a part hereof is the letter from the Foreign Claims Settlement Commission of the United States concerning this claim.

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FOREIGN CLAIMS SETTLEMENT COMMISSION,  
OF THE UNITED STATES,  
Washington, D.C., September 16, 1959.

HON. EMANUEL CELLER,  
*Chairman, Committee on the Judiciary,*  
*House of Representatives, Washington, D.C.*

DEAR MR. CELLER: This refers to your request of September 2, 1959, for the views of this Commission on the bill, H.R. 8054, entitled "A bill for the relief of William Edgar Weaver."

Enactment of this bill would give the Foreign Claims Settlement Commission of the United States jurisdiction to receive and determine the validity and amount of the claim of William Edgar Weaver for detention benefits under section 16 of the War Claims Act of 1948, as amended, notwithstanding the time limitation for filing such claims under that section.

Section 16 of the act as amended by Public Law 744, 83d Congress, approved August 31, 1954, authorized the payment of civilian detention benefits at the rate of \$60 per month for every month interned to American citizens employed as merchant seamen on U.S. vessels or on vessels of governments friendly to the United States during World

War II. The time for filing claims under section 16 expired August 31, 1955.

The Commission's records disclose, further, that every effort was made to notify all former American merchant seamen, including Mr. Weaver, as required by section 2(e) of the act (now sec. 2(b)). Mr. Weaver had previously filed a claim for civilian detention benefits with the former War Claims Commission on February 23, 1950, under section 5 (a) through (e) of the War Claims Act of 1948, as amended. However, since he was captured in the North Atlantic by German military forces, he was not eligible for benefits under section 5 because that section limited the payment of such benefits to persons who were captured in certain specified Pacific areas by the Japanese.

In its attempt to notify Mr. Weaver of his possible eligibility under the amendment, forms were forwarded to him in care of his attorney, Mr. Salvini, under date of August 12, 1955. No response was ever received by the Commission. Mr. Weaver's previous claim under section 5 was regarded as an informal claim under new section 16 which could become a formal timely filed claim if a new application was made within a reasonable period after August 31, 1955. The program was completed on August 31, 1956, as required by statute. It was not until January 28, 1959, however, that Mr. Weaver's attorney wrote to inquire concerning his client's eligibility for benefits. Consequently, the enactment of the bill would, in effect, require an adjudication in a case where claimant has failed to file a claim within the time limitations of the act.

Moreover, enactment could establish a precedent for a series of bills granting the Commission authority to process claims on an ad hoc basis with respect to persons who failed to file claims or filed untimely claims under this or other sections of the War Claims Act of 1948 as well as under other statutes.

The payment of eligible claims under the War Claims Act would be made from the war claims fund, as in the case of similar claims heretofore paid under section 16 of the act. This fund is made up of the net liquidated proceeds of enemy assets vested under the Trading With the Enemy Act and transferred by the Attorney General from time to time as directed by the Congress. While the Commission is advised there are presently sufficient funds to pay this particular claim it is possible that in the future, cases of similar circumstances could not be paid out of this fund. It may be observed that if consideration of Mr. Weaver's claim is authorized and entitlement to an award is established he would receive approximately \$1,272 as detention benefits.

The Commission previously expressed its opposition to the further extension of civilian death, disability, and detention benefits. Its views on the subject are contained in the reports to the Committee on the Judiciary, House of Representatives, on H.R. 4049 and H.R. 9608 in the 85th Congress.

When the Congress prescribes a limited period of time for the performance of any act it is inevitable that there will be some few individuals who do not or cannot comply with these requirements despite the efforts of this Commission in its attempt to notify all interested parties. The success of these efforts is borne out in the fact that approximately 100 claims out of 23,300 were filed after the final statutory deadline.

It is believed that no ground to distinguish the case of William Edgar Weaver from the other late-filed claims for civilian detention benefits has been shown. The acceptance of this claim for adjudication would appear to be discriminatory. Whether the Congress would consider the problem of untimely filed claims on an overall basis appears to be a matter of legislative policy.

For the foregoing reasons the Commission takes no position as to enactment of the bill.

Advice has been received from the Bureau of the Budget that there would be no objection to the presentation of this report to your committee.

Sincerely yours,

WHITNEY GILLILLAND, *Chairman*:

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